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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/385,278	08/30/1999	JOHAN P.M.G. LINNARTZ	PHN17.090	8922

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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BRIARCLIFF MANOR, NY 10510

EXAMINER

LEE, RICHARD J

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 12/29/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/385,278

Applicant(s)

Linnartz et al

Examiner

Richard Lee

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/13/03 and 9/22/03
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Art Unit: 2613

1. The drawings are objected to for the same reasons as set forth in paragraph (2), item (1), of the last Office Action (see Paper no. 8) since the applicants have failed to address this issue.
2. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

At claim 20, lines 1-2, the phrase “comprising an identifier that identifies existence of **the replacement the information within the video signal**” as claimed is vague and indefinite in that it is not particularly understood what is meant by existence of the replacement the information within the video signal.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Art Unit: 2613

4. Claims 10-13, 15, 16, and 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Kawamae et al of record (6,404,781).

Due to the indefiniteness of claim 20 as pointed out in the above paragraph (2), the Examiner wants to point out that this claim is being read in the broadest sense.

Kawamae et al discloses a data transmission method for embedded data as shown in Figures 2-5, and 8, and the same video signal, method and arrangement of decoding a digital video signal, and arrangement and method of transcoding a digital video signal as claimed in claims 10-13, 15, 16, and 18-20, comprising the same means (i.e., 4 of Figure 5) for receiving a main bitstream representing an image of a video signal; means (i.e., additional information data, see Figure 3, and column 1, lines 25-34, column 6, lines 49-56, column 7, lines 37-57, column 9, lines 17-22, column 10, lines 38-49) for receiving an auxiliary bitstream representing replacement video information for an image area of the image, the auxiliary bitstream is accommodated in user data fields of the main bitstream; means for replacing a sub-series of bits of the main bitstream representing the image area by the replacement video information to obtain a modified bitstream (i.e., the video data is replaced with a set of data which includes additional information data being embedded into the video data, thereby replacing a sub-series of bits of the video data representing the image area and providing the modified bitstream, see column 1, lines 25-34, column 6, lines 49-56, column 7, lines 37-57, column 8, lines 5-35, column 9, lines 17-22), wherein the sub-series is represented by a substantially same number of bits as the image area (see column 7, lines 37-57); means (see 5, 9 of Figure 5) for transmitting the modified

Art Unit: 2613

bitstream; means (13 of Figure 5) for decoding the modified bitstream; an image area of the video signal being encoded into a sub-series of bits and the replacement video information being represented by a substantially same number of bits as the sub-series (i.e., the additional information data representing the replacement video data may be embedded into a transmission data and thereby being encoded separately from the video data through the use of compressor/encoder 8 of Figure 5, see column 8, lines 22-29, column 9, lines 11-29, column 10, lines 12-37); deriving the position and/or size of the image area from data included in the auxiliary bitstream (see Figure 3 and column 7, lines 37-57); an indicia identifying block size of the replacement video information (i.e., as identified by the header data of the MPEG format, see column 10, lines 38-49); and an identifier that identifies existence of the replacement the information within the video signal (i.e., as identified by the header data of the MPEG format, see column 10, lines 38-49).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2613

6. Claims 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamae et al as applied to claims 10-13, 15, 16, and 18-20 in the above paragraph (4), and further in view of Epstein of record (6,490,355).

Kawamae et al discloses substantially the same arrangement and method as above, but does not particularly disclose means for determining whether the image area represented by the sub-series of bits of the main bitstream identifies copy protection status information and means for enabling recording of the modified bitstream if the determination is positive as claimed in claims 14 and 17. It is noted that Kawamae et al does teach copy control information for inhibiting playback and/or inhibit of outputting of the reproduced signal (see column 9, lines 1-4, lines 51-56), but not particularly copy protection status information and the means for enabling recording of the modified bitstream if the determination is positive as claimed. However, Epstein discloses a method and apparatus for use of a time dependent watermark for the purpose of copy protection as shown in Figures 1 and 3, and teaches the conventional means for determining whether the image area identifies copy protection status information and means for enabling recording of the modified bitstream if the determination is positive (see column 2, lines 39-58, column 4, lines 16-59, column 5, line 61 to column 6, line 21). Therefore, it would have been obvious to one of ordinary skill in the art, having the Kawamae et al and Epstein references in front of him/her and the general knowledge of copy protections in recordings/reproducing of video, would have had no difficulty in providing the means for determining whether the image area identifies copy protection status information and means for enabling recording of the

Art Unit: 2613

modified bitstream if the determination is positive as taught by Epstein for the video image encoding and decoding as shown in Figure 5 of Kawamae et al for the same well known copy protection of video data purposes as claimed.

7. Claims 1-6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamae et al as applied to claims 10-13, 15, 16, and 18-20 in the above paragraph (4), and further in view of Vynne et al of record (5,960,081).

Kawamae et al discloses substantially the same arrangement and method as above, further including an arrangement and method for transmitting a video signal comprising means (i.e., 4 of Figure 5) for receiving an image of an original video signal; means (i.e., additional information data, see Figure 3, and column 1, lines 25-34, column 6, lines 49-56, column 7, lines 37-57, column 9, lines 17-22, column 10, lines 38-49) for modifying an image area of the image to create a modified video signal; means (8, 9 of Figure 5) for transmitting the modified video signal; the modified video signal is encoded into a bitstream and the image area is represent by the sub-series of bits (see 8 of Figure 5); and wherein the modified video signal is predictively encoded and the step of modifying is applied to pictures which are not referred to by other pictures (see column 10, lines 38-49)..

Kawamae et al does not particularly disclose characterized in that the arrangement includes means for transmitting an auxiliary signal defining a sub-image to replace the modified image area of the modified video signal, wherein the sub-image is encoded by a substantially same number of bits as the image area, wherein the replacement video information is the image

Art Unit: 2613

area of the original signal, the replacement video information is encoded and represented by a substantially same number of bits as the modified image area, and the auxiliary signal is accommodated in user data fields of the bitstream and includes data defining the position and/or size of the replacement video information, as claimed in claims 1-5, and 9. However, Vynne et al discloses an embedding of a digital signature in a video sequence as shown in Figures 2.1-2.3, and teaches the conventional replacement of modified image areas such as logos with the original image or superimposing another logo (see column 1, lines 11-42). And it is considered obvious to incorporate such video replacement within the image coding and decoding system as shown in Figure 5 of Kawamae et al to thereby provide substantially the same auxiliary signal (i.e., replacement video of Vynne et al) defining a sub-image to replace the modified image area of the modified video signal, wherein the sub image is encoded by a substantially same number of bits as the image area (i.e., the sub image and image area may be encoded with the use of compressor/encoder 8 of Kawamae et al, thereby providing the encoding of the sub-image with substantially the same number of bits as the image area), wherein the replacement video information is the image area of the original signal, the replacement video information is encoded (i.e., 8 of Figure 5 of Kawamae et al) and represented by a substantially same number of bits as the modified image area, and the auxiliary signal is accommodated in user data fields of the bitstream and includes data defining the position and/or size of the replacement video information (see Figure 3 of Kawamae et al and column 7, lines 37-57, column 10, lines 38-49). Therefore, it would have been obvious to one of ordinary skill in the art, having the Kawamae et

Art Unit: 2613

al and Vynne et al references in front of him/her and the general knowledge of video replacements of logos, would have had no difficulty in using the teachings of Vynne et al involving the replacement of modified image areas such as logos with the original image to provide substantially the same replacement of modified image areas such as watermarks with the original image within image coding and decoding systems of Kawamae et al for the same well known removal of channel logos and watermarks and replacement with original video data so as to not be able to authenticate and distinguish the source of video purposes as claimed.

8. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Kawamae et al and Vynne et al as applied to claims 1-6, 9-13, 15, 16, and 18-20 in the above paragraphs (4) and (7), and further in view of Epstein of record (6,490,355).

The combination of Kawamae et al and Vynne et al discloses substantially the same arrangement and method as above, further including wherein the image is modified in such a manner that the modified video signal has a pattern that is not reproduced upon playback by conventional analog video recorders (i.e., the logo may be removed, thereby not being able to be reproduced upon playback, see column 1, lines 11-42 of Vynne et al).

The combination of Kawamae et al and Vynne et al does not particularly disclose wherein the modification of the image area identifies copy protection status information as claimed in claim 7. It is noted that Kawamae et al does teach copy control information for inhibiting playback and/or inhibit of outputting of the reproduced signal (see column 9, lines 1-4, lines 51-56), but not particularly copy protection status information as claimed. However, Epstein

Art Unit: 2613

discloses a method and apparatus for use of a time dependent watermark for the purpose of copy protection as shown in Figures 1 and 3, and teaches the conventional identification of copy protection status information (see column 2, lines 39-58, column 4, lines 16-59, column 5, line 61 to column 6, line 21). Therefore, it would have been obvious to one of ordinary skill in the art, having the Kawamae et al, Vynne et al, and Epstein references in front of him/her and the general knowledge of copy protections in recordings/reproducing of video, would have had no difficulty in providing the identification of copy protection status information as taught by Epstein for the video image encoding and decoding as shown in Figure 5 of Kawamae et al for the same well known copy protection of video data purposes as claimed.

9. Regarding the applicants' arguments at pages 8-9 of the amendment filed August 13, 2003 concerning in general that "... The Applicants do not concur that recited claims elements for the replacing of a sub-series of bits within the main bitstream with the replacement video information can be read so broadly to encompass the additional information that is placed in the bitstream by Kawamae et al ... page 3 of the specification to the present invention that "control circuit 11 determines the size and position of an image area in which the original video signal is to be replaced by the mark M." ...", the Examiner wants to firstly point out that: The Specification is not the measure of invention. Therefore, limitations contained therein can not be read into the claims for the purpose of avoiding the prior art. In re Sporck, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1968). Secondly, it is submitted again that the replacement of the video data with a set of data which includes additional information data being embedded into the

Art Unit: 2613

video data as taught by Kawamae et al (i.e., see column 1, lines 25-34, column 6, lines 49-56, column 7, lines 37-57, column 8, lines 5-35, column 9, lines 17-22) nevertheless reads on the claimed features of means for replacing a sub-series of bits of the main bitstream representing the image area by the replacement video information to obtain a modified bitstream.

Regarding the applicants' arguments at pages 9-10 of the amendment filed August 13, 2003 concerning claim 18 and in general that "... the present invention recites a video signal having an image area encoded into a sub-series of bits as well as replacement video information encoded into another sub-series of the same number of bits ... Nowhere within the four corners of Kawamae et al is there any disclosure, or suggestion, that compressor/encoder 8 creates a video signal defining an image area as a sub-series of its, where both sub-series have the same number of bits ...", the Examiner wants to point out that such specifics as argued by the applicants are however not claimed. Though it is true that claim 18 calls for a video signal having an image area encoded into a sub-series of bits, claim 18 does not however recite the replacement video information encoded into another sub-series of the same number of bits as contended by the applicants. Claim 18 as amended from the current amendment filed August 13, 2003 recites "the replacement video information being represented by a substantially same number of bits as said sub-series". It is submitted that the additional information data of Kawamae et al representing the replacement video data as claimed may be embedded into a transmission data as taught by Kawamae and thereby is encoded separately from the video data through the use of compressor/encoder 8 of Figure 5, with the encoding of the additional information data

Art Unit: 2613

represented by a substantially same number of bits as the sub-series (see column 8, lines 22-29, column 9, lines 11-29, column 10, lines 12-37 of Kawamae et al).

Regarding the applicants' arguments at page 10 of the amendment filed August 13, 2003 concerning in general that "... The combination of Kawamae et al and Epstein does not teach the claimed invention as recited by rejected claim 14 wherein replacement data is defined as a sub-series of bits and this sub-series also identifies whether the replacement data identifies a copy protection status ... claim 17 recites means for determining if the image are represented by the sub-series of bits identifies copy protection status which is a feature that is not disclose, or suggested, by the combination made by recited references Kawamae et al and Epstein ...", the Examiner respectfully disagrees. It is submitted again that Epstein teaches the conventional means for determining whether the image area identifies copy protection status information and means for enabling recording of the modified bitstream if the determination is positive (see column 2, lines 39-58, column 4, lines 16-59, column 5, line 61 to column 6, line 21). And, one skilled in the art would have no difficulty in providing the means for determining whether the image area identifies copy protection status information and means for enabling recording of the modified bitstream if the determination is positive as taught by Epstein for the video image encoding and decoding as shown in Figure 5 of Kawamae et al for the same well known copy protection of video data purposes as claimed.

Regarding the applicants' arguments at pages 10-11 of the amendment filed August 13, 2003 concerning the rejection of claims 1-6 and 9 in view of the combination of Kawamae et al

Art Unit: 2613

and Vynne et al and in general that the combination still does not present a reference, alone or in combination, that discloses or suggests, the usefulness or desirability of an auxiliary signal defining a sub-image to replace a modified image area with the replacement video information and the original image are been similarly encoded by substantially the same number of bits, the Examiner respectfully disagrees for reasons as discussed in the above paragraph (7).

Regarding the applicants' arguments at page 11 of the amendment filed August 13, 2003 concerning in general that Epstein does not disclose that the image area is represented by a sub-series of its or that the replacement video information to (which is here copy protection status) is represented by another sub-series of the same number of bits, the Examiner wants to point out that: One cannot show non-obviousness by attacking references individually where, as here the rejections are based on combination of references. In re Keller, 208 USPQ 871 (CCPA 1981). It is submitted that the identification of copy protection status information as taught by Epstein may certainly be provided for the video image encoding and decoding as shown in Figure 5 of Kawamae et al for the same well known copy protection of video data purposes as claimed.

Regarding the applicants' arguments at pages 11-12 of the amendment filed August 13, 2003 concerning in general the recited element of claim 8 has not been addressed by the Office Action, therefore a prima facie case of obviousness is not been made, the Examiner respectfully disagrees. As presented in the previous Office Action (Paper no. 8) and currently maintained in paragraph (8) above, if the logo is removed in Vynne et al (col. 1, lines 11-42), the logo will not be reproduced upon playback. Such logo removal is certainly an obvious modification well

Art Unit: 2613

within one skill in the art, and for that matter reads on the feature of “wherein the image is modified in such a manner that the modified video signal has a pattern that is not reproduced upon playback by conventional analog video recorders”, as claimed. The claimed invention is rendered obvious in view of the combination of Kawamae et al, Vynne et al, and Epstein.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. **Any response to this final action should be mailed to:**

Box AF

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Art Unit: 2613


or faxed to:

(703) 872-9314, (for formal communications; please mark "EXPEDITED
PROCEDURE") (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Lee whose telephone number is (703) 308-6612. The Examiner can normally be reached on Monday to Friday from 8:00 a.m. to 5:30 p.m, with alternate Fridays off.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group customer service whose telephone number is (703) 306-0377.


RICHARD LEE
PRIMARY EXAMINER

Richard Lee/rl

12/24/03

